

FILED

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2011 AUG -3 PM 2:42

CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
SANTA ANA

BY _____

Attorneys for plaintiff MARK ZERBY

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

MARK ZERBY, an individual

Plaintiff,

vs.

CITY OF LONG BEACH; LONG
BEACH POLICE DEPARTMENT; JIM
MCDONNELL, individually and as
Chief of Police; and DOES 1 through 10,
individually and as a peace officer,
inclusive,

Defendants.

Civil Action No.: CV11-06379 PA (MRWx)

COMPLAINT

1. Substantive Due Process (42 U.S.C. § 1983)
2. Unlawful Custom, Policy & Practice (42 U.S.C. § 1983)
3. Wrongful death (Civ. Proc. Code § 377.60(b))

DEMAND FOR JURY TRIAL

Plaintiff MARK ZERBY, individually, alleges against defendants CITY OF LONG BEACH, LONG BEACH POLICE DEPARTMENT, JIM MCDONNELL, individually and as Chief of Police, and DOES 1 through 10, individually and as a peace officer, inclusive, as follows:

JURISDICTION AND VENUE

1
2 1. This civil action is brought for the redress of alleged deprivations of
3 constitutional rights as protected by 42 U.S.C. §§ 1983, 1985, 1986, 1988, and the
4 Fourth and Fourteenth Amendments of the United States Constitution. Jurisdiction
5 is founded on 28 U.S.C. §§ 1331, 1343, and 1367.

6 2. Venue is proper in this Court under 28 U.S.C. § 1391(b), because
7 defendants reside in, and all incidents, events, and occurrences giving rise to this
8 action occurred in, the County of Los Angeles, California.

PARTIES

9
10 3. At all relevant times, decedent DOUGLAS ZERBY was an individual
11 residing in County of Los Angeles, California.

12 4. At all relevant times, Plaintiff MARK ZERBY was and is a citizen of the
13 United States, residing in County of Los Angeles, State of California. Plaintiff
14 MARK ZERBY is the father of decedent, DOUGLAS ZERBY, and was dependent
15 upon decedent at the time of decedent's death for the necessities of life, including
16 but not limited to support that aided plaintiff MARK ZERBY in obtaining the
17 things, such as shelter, clothing, food and medical treatment, which one cannot and
18 should not do without.

19 5. At all times herein mentioned, defendant CITY OF LONG BEACH was
20 and is a public entity duly organized and existing as such under the laws of and in
21 the State of California. Defendant LONG BEACH POLICE DEPARTMENT is an
22 agency of Defendant CITY OF LONG BEACH and Defendant CITY OF LONG
23 BEACH is a "person" subject to suit within the meaning of 42 U.S.C. § 1983 under
24 *Monell v. Dept. of Social Services*, (1978) 436 U.S. 658, 691. Under California
25 Government Code § 815.2(a), Defendant CITY OF LONG BEACH is liable for any
26 and all wrongful acts hereinafter complained of committed by any of the individual
27 officer defendants.
28

1 6. Plaintiff is informed and believes and thereon alleges that each of the
2 defendants designated as a DOE is intentionally and negligently responsible in
3 some manner for the events and happenings herein referred to, and thereby
4 proximately caused injuries and damages as herein alleged. The true names and
5 capacities of DOES 1 through 10, inclusive, and each of them, are not now known
6 to plaintiff who therefore sues said defendants by such fictitious names, and
7 plaintiff will seek leave to amend this complaint to show their true names and
8 capacities when the same are ascertained.

9 7. At all times herein mentioned, DOES 1 through 10, inclusive, were and
10 now are, each duly appointed peace officers and ranking officers and employees of
11 defendants LONG BEACH POLICE DEPARTMENT and CITY OF LONG BEACH,
12 qualified and acting under color of state law, and as the employee, agent and
13 representative of every other defendant.

14 8. Defendant JIM MCDONNELL is the Police Chief of the LONG BEACH
15 POLICE DEPARTMENT, an agency of the CITY OF LONG BEACH. Plaintiff is
16 informed and believes and based thereon alleges that defendant JIM
17 MCDONNELL is responsible for implementing, maintaining, sanctioning, or
18 condoning policies, customs and/or practices under which other defendants
19 committed the illegal or wrongful acts hereinafter complained of. By reason of
20 these policies, practices and/or customs, defendant JIM MCDONNELL is liable for
21 the damages hereinafter complained of. Plaintiff sues defendant JIM
22 MCDONNELL in both his official and personal capacity.

23 9. At all times herein mentioned, each and every defendant herein had the
24 legal duty to oversee and supervise the hiring, conduct, employment and discipline
25 of each and every other defendant herein.

26 10. Defendants, and each of them, did the acts and omissions hereinafter
27 alleged in bad faith and with knowledge that their conduct violated well
28 established and settled law.

1 11. Plaintiff MARK ZERBY hereby demands trial by jury.

2 12. On May 16, 2011, plaintiff presented to defendants CITY OF LONG
3 BEACH and LONG BEACH POLICE DEPARTMENT a Government Claim based
4 on the acts, omissions, damages and injuries herein complained of, a true and
5 correct copy of which is attached hereto as Exhibit A. On June 30, 2011, defendants
6 CITY OF LONG BEACH and LONG BEACH POLICE DEPARTMENT failed to act
7 on the claim within the period of 45 days after its presentation, and the claim was
8 thus deemed rejected, under the provisions of Government Code § 912.4, at the
9 expiration of the 45-day period, to wit, on June 30, 2011.

10 **FACTS COMMON TO ALL CLAIMS FOR RELIEF**

11 13. Plaintiff refers to and repleads each and every allegation contained in
12 paragraphs 1 through 12 of this complaint, and by this reference incorporates the
13 same herein and makes each a part hereof.

14 14. On the afternoon of December 12, 2010, DOUGLAS ZERBY, deceased,
15 was sitting on a porch landing holding a water nozzle handle. A neighbor mistook
16 the water nozzle handle for a weapon, and called 911. DOES 1 through 10 arrived
17 on the scene and without cause or justification, and acting under color of law,
18 DOES 1 through 10, individually and as a peace officer, intentionally and
19 knowingly shot the decedent, DOUGLAS ZERBY, causing his death.

20 15. DOES 1 through 10 shot DOUGLAS ZERBY, deceased, at least twelve
21 times, from a distance of approximately 12-15 feet away.

22 16. At all times prior to the shooting, DOUGLAS ZERBY, deceased, was
23 unarmed.

24 17. At no time prior to the shots being fired did DOES 1 through 10 ask the
25 neighbor what why he called or what he observed.

26 18. At no time prior to the shots being fired did DOES 1 through 10 ever
27 announced their presence to DOUGLAS ZERBY, deceased. DOES 1 through 10 did
28 not speak to DOUGLAS ZERBY, deceased, at all.

1 19. At no time prior to the shots being fired did DOES 1 through 10 ever
2 identify themselves as police officers.

3 20. At no time prior to the shots being fired did DOES 1 through 10 ever
4 order DOUGLAS ZERBY, deceased, to drop anything.

5 21. At no time prior to the shots being fired did DOES 1 through 10 ever
6 warn DOUGLAS ZERBY, deceased, that they were going to shoot him or give him
7 any commands.

8 22. Rather, DOES 1 through 10 shot and killed DOUGLAS ZERBY,
9 deceased, without any warning or justification.

10 23. On information and belief, DOUGLAS ZERBY, deceased, had not
11 committed any crime. DOES 1 through 10 had neither reasonable suspicion to
12 detain DOUGLAS ZERBY, deceased, nor probable cause to arrest him. On
13 information and belief, DOES 1 through 10 had no information that DOUGLAS
14 ZERBY, deceased, had committed a felony.

15 24. At the time of the shooting, DOUGLAS ZERBY, deceased, was
16 unarmed and posed no imminent threat of death or serious physical injury to either
17 DOES 1 through 10, nor to any other person. The use of deadly force was excessive
18 and objectively unreasonable under the circumstances. The only object found on
19 the staircase after the shooting was a water nozzle handle. Given that DOUGLAS
20 ZERBY, deceased, was unarmed and given the number of shots fired without
21 warning, the use of deadly force by DOES 1 through 10 demonstrated a deliberate
22 indifference to the health and safety of DOUGLAS ZERBY, deceased, that shocks
23 the conscience.

24 25. Immediately after shooting DOUGLAS ZERBY, deceased, DOES 1
25 through 10 dragged his body from the landing area of the porch to the bottom of
26 the steps. Paramedics were not permitted to treat DOUGLAS ZERBY, deceased, for
27 at least fifteen minutes, and potentially longer after the shooting.
28

1 26. By reason of the acts and omissions of defendants, on December 12,
2 2010, DOUGLAS ZERBY, deceased, suffered multiple wounds to his chest,
3 abdomen, arms and legs, shock to his nervous system, severe pain and anguish
4 until his death on that date, all to plaintiff MARK ZERBY's damage in an amount
5 according to proof.

6 27. DOES 1 through 10, individually and as a peace officer, were present at
7 the scene and intentionally and knowingly permitted the unprovoked and
8 unjustified killing of DOUGLAS ZERBY, deceased, by failing to prevent it when
9 circumstances were such that they could.

10 28. DOES 1 through 10, individually and as a peace officer, inclusive, then
11 conspired among themselves to justify their bad faith excessive use of force and
12 hide the true cause of DOUGLAS ZERBY's death.

13 29. These acts of defendants constituted excessive and deadly force which
14 caused plaintiff MARK ZERBY special and general damages, physical injuries and
15 extreme emotional distress. Further the acts of DOES 1 through 10, individually
16 and as a peace officer, inclusive, deprived plaintiff MARK ZERBY and DOUGLAS
17 ZERBY, deceased, of rights secured to them by the First, Fourth, and Fourteenth
18 Amendments to the United States Constitution in that defendants deprived
19 DOUGLAS ZERBY of his right to be free in his person against unreasonable search
20 and seizure, his right to be free from infliction of cruel and unusual punishment,
21 and his right not to be deprived of life, liberty and property without due process of
22 law.

23 30. At all times herein mentioned defendants were acting under the color
24 of one or more statutes, laws, regulations, customs, practices and usages of the
25 State of California, County of Los Angeles, the City of Long Beach, and the Long
26 Beach Police Department.

27 31. The aforesaid acts and omissions of defendants were done knowingly,
28 intentionally and for the purpose of depriving plaintiff MARK ZERBY and

DOUGLAS ZERBY, deceased, of their constitutional rights in reckless and callous disregard of the same, and by reason thereof, plaintiff MARK ZERBY claims exemplary and punitive damages against each individual defendant (and not against defendants CITY OF LONG BEACH and LONG BEACH POLICE DEPARTMENT) in an amount according to proof.

FIRST CLAIM FOR RELIEF

(Substantive Due Process - 42 U.S.C. § 1983)

[Against defendants DOES 1 through 10, individually and as peace officer, inclusive]

32. Plaintiff refers to and repleads each and every allegation contained in paragraphs 1 through 31 of this complaint, and by this reference incorporates the same herein and makes each a part hereof.

33. Plaintiff MARK ZERBY had a cognizable interest under the Due Process Clause of the Fourteenth Amendment of the United States Constitution to be free from state actions that deprive him of life, liberty, or property in such a manner as to shock the conscience, including but not limited to, unwarranted state interference in plaintiff's familiar relationship with his son, DOUGLAS ZERBY, deceased.

34. Plaintiff MARK ZERBY was dependent upon his son, DOUGLAS ZERBY, deceased, at the time of decedent's death for the necessities of life, including but not limited to support that aided plaintiff MARK ZERBY in obtaining the things, such as shelter, clothing, food and medical treatment, which one cannot and should not do without.

35. DOUGLAS ZERBY had a cognizable interest under the Due Process Clause of the Fourteenth Amendment of the United States Constitution to be free from state actions that deprive him of his right to life, liberty, or property in such a manner as to shock the conscience.

1 36. As a direct and legal result of the excessive force by DOES 1 through 10,
2 individually and as peace officer, inclusive, and failure to intervene, DOUGLAS
3 ZERBY died. Plaintiff MARK ZERBY was thereby deprived of his constitutional
4 right of familiar relationship with DOUGLAS ZERBY, deceased.

5 37. DOES 1 through 10, individually and as peace officer, inclusive, acting
6 under color of state law, thus violated the Fourteenth Amendment right of plaintiff
7 MARK ZERBY to be free from unwarranted interference with the familiar
8 relationship with DOUGLAS ZERBY.

9 38. The above described actions of DOES 1 through 10, individually and as
10 peace officer, inclusive, along with other undiscovered conduct, shock the
11 conscience, in that they acted with deliberate indifference to the constitutional
12 rights of plaintiff MARK ZERBY and DOUGLAS ZERBY, deceased, and with
13 purpose to harm unrelated to and unjustified by any legitimate law enforcement
14 objective.

15 39. As a direct result and legal result of the acts of DOES 1 through 10,
16 individually and as peace officer, inclusive, plaintiff MARK ZERBY has suffered
17 extreme and severe mental anguish and pain and has been injured in mind and
18 body, and has also been deprived of the life-long love, companionship, comfort,
19 support, society, care and sustenance of DOUGLAS ZERBY, deceased, and will
20 continue to be so deprived for the remainder of his natural life. Plaintiff MARK
21 ZERBY is also claiming funeral and burial expenses and a loss of financial support.

22 40. The conduct of DOES 1 through 10, individually and as peace officer,
23 inclusive was willful, wanton, malicious, and done with reckless disregard for the
24 rights and safety of plaintiff MARK ZERBY and DOUGLAS ZERBY, deceased, and
25 therefore warrants the imposition of exemplary and punitive damages.
26
27
28

SECOND CLAIM FOR RELIEF

(Unlawful Custom, Policy & Practice – 42 U.S.C. § 1983)

[Against defendants CITY OF LONG BEACH, LONG BEACH POLICE DEPARTMENT, JIM MCDONNELL, individually and as Police Chief, and DOES 1 through 10, individually and as peace officer, inclusive]

41. Plaintiff refers to and repleads each and every allegation contained in paragraphs 1 through 40 of this complaint, and by this reference incorporates the same herein and makes each a part hereof.

42. Plaintiff is informed and believes and thereon alleges that on or about December 12, 2010, and for at least five years prior thereto, defendants CITY OF LONG BEACH, LONG BEACH POLICE DEPARTMENT, Police Chief JIM MCDONNELL, and DOES 1 through 10, inclusive, and each of them, established, maintained, enforced and applied a custom, policy and practice of using and permitting the use of unnecessary, unreasonable and deadly force by:

- (a) Condoning a peace officer code of silence throughout the Department;
- (b) Failing to discipline officers who engage in the use of unnecessary or excessive force;
- (c) Failing to adequately supervise and control officers known, or who reasonably should have been known, to have used unnecessary or excessive force;
- (d) Assigning officers known, or who reasonably should have been known, to have violent propensities to duties which enables such officers to continue to use unnecessary or excessive force;
- (e) Conducting investigations of officers involved in misconduct, including use of excessive force, false arrests and criminal conspiracies, in such a manner as to obfuscate officer culpability;
- (f) Training officers for the CITY OF LONG BEACH and LONG BEACH POLICE DEPARTMENT in a manner which promotes attitudes and behavior

1 among the administration and rank and file inconsistent with a civilian police
2 force;

3 Thereby proximately causing injuries to members of the public, including plaintiff
4 in violation of the First, Fourth, Fifth and Fourteenth Amendments of the
5 Constitution.

6 43. Plaintiff is informed and believes and thereon alleges that at the time of
7 the incidents alleged above and prior thereto, the CITY OF LONG BEACH, LONG
8 BEACH POLICE DEPARTMENT, Police Chief JIM MCDONNELL, DOES 1
9 through 10, and other supervisory officers of the CITY OF LONG BEACH and
10 LONG BEACH POLICE DEPARTMENT, as yet unknown to plaintiff, knew or
11 should have known that DOES 1 through 10, inclusive, and each of them, are
12 dishonest and corrupt individuals and would use excessive or deadly force, and
13 failed to properly train, supervise, investigate, regulate or discipline them. These
14 failures and the aforementioned practices, policies and customs were and are the
15 proximate cause of the death to decedent DOUGLAS ZERBY and the injuries
16 suffered by plaintiff MARK ZERBY.

17 44. Plaintiff is informed and believe and thereon alleges that at the time of
18 the incident alleged above, prior and subsequent thereto, the LONG BEACH
19 POLICE DEPARTMENT had (A) inadequate use of force guidelines on the use of
20 deadly force; (B) the training and supervision of police officers in the use of force
21 and deadly force by the LONG BEACH POLICE DEPARTMENT was and is
22 grossly inadequate; and (C) Use of Force regulations were and are routinely
23 ignored or perverted to justify virtually all uses of force as being within policy.
24 These failures were and are the proximate cause of death to decedent DOUGLAS
25 ZERBY and the injuries suffered by plaintiff MARK ZERBY.

26 45. The aforesaid acts and omissions of defendants were done knowingly,
27 intentionally and for the purpose of depriving decedent DOUGLAS ZERBY and
28 plaintiff MARK ZERBY of their constitutional rights.

46. By reason of the aforesaid acts and omissions of defendants, plaintiff MARK ZERBY was required to and did retain an attorney to institute and prosecute the within action and to render legal assistance to plaintiff in order that he may vindicate the loss and impairment of rights and by reason thereof, plaintiff requests payment by defendants of wrongful death damages and a reasonable sum for attorneys fees.

THIRD CLAIM FOR RELIEF

(Wrongful death - Civ. Proc. Code § 377.60(b))

[Against CITY OF LONG BEACH, LONG BEACH POLICE DEPARTMENT, JIM MCDONNELL, individually and as Chief of Police, and DOES 1 through 10, individually and as a peace officer, inclusive]

47. Plaintiff refers to and repleads each and every allegation contained in paragraphs 1 through 46 of this complaint, and by this reference incorporates the same herein and makes each a part hereof.

48. Plaintiff MARK ZERBY brings this action for wrongful death pursuant to the provisions of Code of Civil Procedure § 377.60(b) in that, at the time of decedent DOUGLAS ZERBY's death, plaintiff MARK ZERBY was dependent upon decedent for the necessities of life, including but not limited to support that aided plaintiff MARK ZERBY in obtaining the things, such as shelter, clothing, food and medical treatment, which one cannot and should not do without.

49. At or about the aforementioned time, date and place, DOES 1 through 10, individually and as a peace officer, intentionally, negligently and recklessly shot DOUGLAS ZERBY to death thereby depriving decedent of his life without due process of law in violation of his Constitutional rights under the First, Fourth and Fourteenth Amendments and the Constitution of the State of California.

50. On and for some time before December 12, 2010, defendants CITY OF LONG BEACH, LONG BEACH POLICE DEPARTMENT, JIM MCDONNELL, individually and as Chief of Police, and DOES 1 through 10, individually and as a

1 peace officer, inclusive, and each of them, negligently and carelessly employed,
2 retained, trained, supervised, assigned, controlled and negligently and carelessly
3 failed to adequately discipline DOES 1 through 10, individually and as a peace
4 officer, inclusive, who defendants CITY OF LONG BEACH, LONG BEACH
5 POLICE DEPARTMENT, JIM MCDONNELL, individually and as Chief of Police,
6 and DOES 1 through 10, individually and as a peace officer, inclusive, and each of
7 them, at all times material herein knew or reasonably should have known had
8 dangerous and dishonest propensities for abusing their authority and for using
9 excessive and punitive force and violence and for falsifying their accounts and
10 reports of their actions, especially where force was used by said defendants.

11 51. By reason of the aforesaid acts and omissions of defendants, plaintiff
12 has been and will forever be deprived of the love, affection, society,
13 companionship, support and pecuniary benefits of decedent, all to plaintiff's
14 damages according to proof at trial.

15 52. As a further proximate result of the aforesaid acts and omissions by
16 defendants and the death of decedent, plaintiff has incurred funeral and burial
17 expenses in an amount to be proven at trial.

18
19 **PRAYER FOR RELIEF**

20 Plaintiff prays for judgment on all causes of action against defendants, and
21 each of them, as follows:

- 22 1. For general damages in a sum according to proof;
23 2. For special damages according to proof;
24 3. For interest on all economic damages in the legal amount from December
25 12, 2010 to the date of judgment;
26 4. For punitive damages and treble damages as provided by law against each
27 individual defendant;
28 5. For attorney's fees pursuant to 42 U.S.C. § 1988;

1 6. For costs of suit incurred herein; and

2 7. For such other and further relief as the court may deem proper.

3
4 Dated:

8/1/2011

MARDIROSSIAN & ASSOCIATES, INC.

5
6
7 By:



8 Garo Mardirossian, Esq.
9 Lawrence D. Marks, Esq.
10 Adam Feit, Esq.
11 *Attorneys for Plaintiff*
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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

NOTICE OF ASSIGNMENT TO UNITED STATES MAGISTRATE JUDGE FOR DISCOVERY

This case has been assigned to District Judge Percy Anderson and the assigned discovery Magistrate Judge is Michael Wilner.

The case number on all documents filed with the Court should read as follows:

CV11- 6379 PA (MRWx)

Pursuant to General Order 05-07 of the United States District Court for the Central District of California, the Magistrate Judge has been designated to hear discovery related motions.

All discovery related motions should be noticed on the calendar of the Magistrate Judge

=====

NOTICE TO COUNSEL

A copy of this notice must be served with the summons and complaint on all defendants (if a removal action is filed, a copy of this notice must be served on all plaintiffs).

Subsequent documents must be filed at the following location:

☒ **Western Division**
312 N. Spring St., Rm. G-8
Los Angeles, CA 90012

☐ **Southern Division**
411 West Fourth St., Rm. 1-053
Santa Ana, CA 92701-4516

☐ **Eastern Division**
3470 Twelfth St., Rm. 134
Riverside, CA 92501

Failure to file at the proper location will result in your documents being returned to you.

UNITED STATES DISTRICT COURT

for the
Central District of California

MARK ZERBY

Plaintiff

v.

CITY OF LONG BEACH,

SEE ATTACHED

Defendant

Civil Action No. CV 11-06379 PA (MRWx)

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)* CITY OF LONG BEACH; LONG BEACH POLICE DEPARTMENT;
JIM MCDONNEL; DOES 1 through 10
333 West Ocean Boulevard
Long Beach, CA 90802

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

MARDIROSSIAN & ASSOCIATES, INC.

Garo Mardirossian, Esq.; Lawrence D. Marks, Esq.; Adam Feit, Esq.

6311 Wishire Boulevard

Los Angeles, CA 90048-5001

Telephone: (323) 653-6311 / Facsimile: (323) 651-5511

E-mail: afeit@garolaw.com

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: AUG - 4 2011

SEAL

Signature of Clerk or Deputy Clerk

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET

I (a) PLAINTIFFS (Check box if you are representing yourself <input type="checkbox"/> MARK ZERBY		DEFENDANTS CITY OF LONG BEACH; LONG BEACH POLICE DEPARTMENT; JIM MCDONNELL, individually and as CHIEF OF POLICE; and DOES 1 through 10, individually and as a peace officer, inclusive	
(b) Attorneys (Firm Name, Address and Telephone Number. If you are representing yourself, provide same.) MARDIROSSIAN & ASSOCIATES, INC. 6311 Wilshire Boulevard, Los Angeles, CA 90048-5001 (323) 653-6311		Attorneys (If Known)	

II. BASIS OF JURISDICTION (Place an X in one box only.) <input type="checkbox"/> 1 U.S. Government Plaintiff <input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party) <input type="checkbox"/> 2 U.S. Government Defendant <input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)	III. CITIZENSHIP OF PRINCIPAL PARTIES - For Diversity Cases Only (Place an X in one box for plaintiff and one for defendant.) <table style="width:100%; border: none;"> <tr> <td style="width:33%;">Citizen of This State</td> <td style="width:10%; text-align: center;">PTF</td> <td style="width:10%; text-align: center;">DEF</td> <td style="width:33%;">Incorporated or Principal Place of Business in this State</td> <td style="width:10%; text-align: center;">PTF</td> <td style="width:10%; text-align: center;">DEF</td> </tr> <tr> <td></td> <td style="text-align: center;"><input type="checkbox"/> 1</td> <td style="text-align: center;"><input type="checkbox"/> 1</td> <td></td> <td style="text-align: center;"><input type="checkbox"/> 4</td> <td style="text-align: center;"><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td style="text-align: center;"><input type="checkbox"/> 2</td> <td style="text-align: center;"><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business in Another State</td> <td style="text-align: center;"><input type="checkbox"/> 5</td> <td style="text-align: center;"><input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> </tr> </table>	Citizen of This State	PTF	DEF	Incorporated or Principal Place of Business in this State	PTF	DEF		<input type="checkbox"/> 1	<input type="checkbox"/> 1		<input type="checkbox"/> 4	<input type="checkbox"/> 4	Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6
Citizen of This State	PTF	DEF	Incorporated or Principal Place of Business in this State	PTF	DEF																				
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Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6																				

IV. ORIGIN (Place an X in one box only.) <input checked="" type="checkbox"/> 1 Original Proceeding <input type="checkbox"/> 2 Removed from State Court <input type="checkbox"/> 3 Remanded from Appellate Court <input type="checkbox"/> 4 Reinstated or Reopened <input type="checkbox"/> 5 Transferred from another district (specify): <input type="checkbox"/> 6 Multi-District Litigation <input type="checkbox"/> 7 Appeal to District Judge from Magistrate Judge	
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V. REQUESTED IN COMPLAINT: JURY DEMAND: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No (Check 'Yes' only if demanded in complaint.)	
CLASS ACTION under F.R.C.P. 23: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	MONEY DEMANDED IN COMPLAINT: \$ _____

VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.) 42 U.S.C § 1983, Substantive due process, unlawful custom, policy & practice, wrongful death	
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VII. NATURE OF SUIT (Place an X in one box only.)					
OTHER STATUTES <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Act <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Info. Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes	CONTRACT <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	TORTS PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Fed. Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury-Med Malpractice <input type="checkbox"/> 365 Personal Injury-Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus-Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	TORTS PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability BANKRUPTCY <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 American with Disabilities - Employment <input type="checkbox"/> 446 American with Disabilities - Other <input checked="" type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 Habeas Corpus <input type="checkbox"/> 535 General <input type="checkbox"/> 540 Death Penalty <input type="checkbox"/> 540 Mandamus/Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition FORFEITURE/PENALTY <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS-Third Party 26 USC 7609

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AFTER COMPLETING THE FRONT SIDE OF FORM CV-71, COMPLETE THE INFORMATION REQUESTED BELOW.

VIII(a). IDENTICAL CASES: Has this action been previously filed in this court and dismissed, remanded or closed? ☒ No ☐ Yes
If yes, list case number(s): _____

VIII(b). RELATED CASES: Have any cases been previously filed in this court that are related to the present case? ☐ No ☒ Yes
If yes, list case number(s): SACV11-00536

Civil cases are deemed related if a previously filed case and the present case:

- (Check all boxes that apply) ☒ A. Arise from the same or closely related transactions, happenings, or events; or
☒ B. Call for determination of the same or substantially related or similar questions of law and fact; or
☒ C. For other reasons would entail substantial duplication of labor if heard by different judges; or
☐ D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

IX. VENUE: (When completing the following information, use an additional sheet if necessary.)

- (a) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH named plaintiff resides.
☐ Check here if the government, its agencies or employees is a named plaintiff. If this box is checked, go to item (b)

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
MARK ZERBY; County of Los Angeles	

- (b) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH named defendant resides.
☒ Check here if the government, its agencies or employees is a named defendant. If this box is checked, go to item (c).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
CITY OF LONG BEACH: County of Los Angeles LONG BEACH POLICE DEPARTMENT: County of Los Angeles JIM McDONNELL: County of Los Angeles	

- (c) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH claim arose.
Note: In land condemnation cases, use the location of the tract of land involved.

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
County of Los Angeles	

* Los Angeles, Orange, San Bernardino, Riverside, Ventura, Santa Barbara, or San Luis Obispo Counties

Note: In land condemnation cases, use the location of the tract of land involved

X. SIGNATURE OF ATTORNEY (OR PRO PER):  Date August 1, 2011

Notice to Counsel/Parties: The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet.)

Key to Statistical codes relating to Social Security Cases:

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405(g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405(g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. (g))